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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/671,470	09/29/2003	Hiroyuki Menjo	243099US90	7961
22850	7590	01/26/2007	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			HERRERA, DIEGO D	
			ART UNIT	PAPER NUMBER
			2617	
SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE		
3 MONTHS	01/26/2007	PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)
	10/671,470	MENJO ET AL.
	Examiner	Art Unit
	Diego Herrera	2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 29 September 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-13 is/are pending in the application.
 - 4a) Of the above claim(s) 13 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-12 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 29 September 2003 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Examiner noticed amendments made on claims 1, 5, 9, and 10-12.

Examiner noticed cancellation of claim 13.

Claim Rejections - 35 USC § 101

The examiner sustains 35 U.S.C. 101, because claims 9-12 are non-statutory.

The examiner recommends the following example to help further prosecution and make the claims statutory: "A computer-readable medium encoded with a winner deciding program executable on a computer readable means".

Response to Arguments

Applicant's arguments with respect to claims 1, 5, & 9 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

Art Unit: 2617

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sporgis (US patent 6320495 B1), and further in view of Newell et al. (US patent 6895238 B2).

Regarding claim 1, Sporgis discloses a winner deciding system (col. 4 lines: 8-13; Sporgis teaches deciding system in place to determine winner of game) comprising:

A transmitter for transmitting preliminary information related to a winning location and transmitting a winning result to at least one winning mobile device (col. 3 lines: 4-18, fig. 2, element s2, Fig. 1, elements 14 and 15; Sporgis teaches transmitting means for transmitting information about clues as to where to start looking for prizes directly to the mobile devices or players);

A processor deciding at least one mobile device indicating the date and time information that is before the expiration date or within the preliminary information availability period as a winning mobile device from all the mobile devices that has been determined as having the location information that is within the winning location or an acceptable range of the winning location (fig. 1 element 12 processor running program of decision means of winner, position tracking, clues, information access, and options; col. 3 lines: 66-67—col. 4 lines: 1-6, 8-13; Sporgis teaches deciding system in place to determine winner of game, fig. 2, col. 4 lines: 8-13; Sporgis teaches that if player has reached the final destination and if he has complete all task he is determined to be the winner).

A receiver receiving location information specifying a location of each of the mobile devices and date-and-time information specifying date and time when each of the mobile devices obtains the location information; and (col. 5 lines: 38-44, Sporgis teaches location of mobile user is received by main game master station and transmits receive location to other users requesting status of all players and their location towards the final location prize);

However, Sporgis does not specifically discloses related to deadline information indicating an expiration date of the preliminary information or time period information indicating a preliminary information availability period to mobile devices, nonetheless, Newell et al. teaches time constrains to players information and areas they are in, the faster they are able to get to the goal the better condition they are of winning (paragraph [0012]-[0013], [0028], [0031]).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the invention of Sporgis to specifically include time constraints to players information and areas they are in, the faster they are able to get to the goal the better condition they are of winning, as taught by Newell et al. for the purposes of setting game duration (paragraph [0012]-[0014], [0028], [0031])

Regarding claim 5 and 9, Sporgis discloses a winner deciding method (col. 4 lines: 8-13; Sporgis teaches deciding system in place to determine winner of game) comprising:

An information transmitting step of allowing a transmitter to transmit preliminary information related to a winning location and related to deadline information indicating an expiration date of the preliminary information or time period information indicating a preliminary information availability period to mobile devices and transmitting a winning result to at least one winning mobile device (col. 3 lines: 4-18, fig. 2, element s2, Fig. 1, elements 14 and 15; Sporgis teaches transmitting means for transmitting information about clues as to where to start looking for prizes to the mobile devices or players);

A location receiving step of allowing a receiver to receive location information specifying a location of each of the mobile devices and data-and-time information specifying date and time when each of the mobile devices obtains the location (col. 5 lines: 38-44, Sporgis teaches location of mobile user is received by main game master station and transmits receive location to other users requesting status of all players and their location towards the final location prize); and

A winner deciding step of allowing a processor to decide at least one mobile device indicating the date-and-time information that is before the expiration date or within the preliminary information availability period as a winning mobile device from all the mobile device that has been determined as having the location information that is within the winning location or an acceptable range of the winning location (fig. 1 element 12 processor running program of decision means of winner, position tracking, clues, information access, and options; col. 3 lines: 66-67—col. 4 lines: 1-6, 8-13; Sporgis teaches deciding system in place to determine winner of game, fig. 2, col. 4 lines: 8-13; Sporgis teaches that if player has reached the final destination and if he has complete all task he is determined to be the winner).

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Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the invention of Sporgis to specifically include time constrains to players information and areas they are in, the faster they are able to get to the goal the better condition they are of winning, as taught by Newell et al. for the purposes of setting game duration (paragraph [0012]-[0014], [0028], [0031]).

Consider claims 2 & 6, and as applied to claims 1 & 5 above, Sporgis discloses wherein the preliminary information includes at least image information related to the winning location (col. 3 lines: 43-47, Sporgis teaches that at least an image information related to the winning location is transmitted as part of set of clues related to the final destination).

Consider claims 3 & 7, and as applied to claims 1 & 5 above, Sporgis discloses wherein the preliminary information includes at least sound information related to the winning location (col. 3 lines: 43-47, Sporgis teaches that at least sound information related to the winning location is transmitted as part of set of clues related to the final destination).

Consider claims 4 & 8, and as applied to claims 1 & 5 above, Sporgis discloses wherein the information transmitting means transmits the preliminary information in response to a request from the mobile device (col. 3 lines: 28-36, 51-60; Sporgis teaches players are selected due to entry request to play the game but not only that other not registered participants can also follow along via central website).

Consider claim 10, and as applied to claim 9 above, wherein the preliminary information includes at least image information related to the winning location (col. 3

lines: 43-47, Sporgis teaches that at least an image information related to the winning location is transmitted as part of set of clues related to the final destination).

Consider claim 11, and as applied to claim 9 above, wherein the preliminary information includes at least sound information related to the winning location (col. 3 lines: 45).

Consider claim 12, and as applied to claim 9 above, wherein the information transmitting means transmits the preliminary information in response to a request from the mobile device (col. 3 lines: 28-36, 51-60; Sporgis teaches players are selected due to entry request to play the game but not only that other not registered participants can also follow along via central website).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Diego Herrera whose telephone number is (571) 272-0907. The examiner can normally be reached on Monday-Thursdays, 6:30 AM-3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kincaid G. Lester can be reached on (571) 272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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